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MAR 2 4 2003

OFFICE OF THE

No. 02-1108

IN THE

SUPREME COURT OF THE UNITED STATES

Deanna C. Willson-PETITIONER

V.

Catholic Charities Adoption Agency and M. Bauer
appellees-Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO
KANSAS COURT OF APPEALS

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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9 pp

INTRODUCTION

Federal oversight is strongly needed for the State of Kansas. Evidence of abuse has prompted the UN to form a special 1503 committee addressing these cases. Several cases from the State of Ks alone are being looked into and abuse has been acknowledged. My daughter was withheld from me illegally and my signature was pressured while I still have several doses of powerful narcotics in my system. There is **case law**, which is identical to my situation regarding the relinquishment not being valid, and all levels of the Courts in Kansas have ignored this. As shown to you by Martin Bauer in his response brief on page 16, several states will not accept the provision of fraud and coercion as justification for returning a child to his/her natural parent. Adoption is the only area of law where the courts have seen it fit to legalize fraud. The failure of the Kansas Courts to address this suggests that Kansas has the right to exclude mothers only considering adoption from the exercise of fundamental rights simply to appease the self-serving interests of adoption attorneys, agencies, and prospective adoptive parents who have no rights to begin with. This has led to the abuses that are evident in this case as well as a countless number of other cases. Furthermore, most of these mothers are denied due process simply

because they do not have the financial resources or influence in the judicial system. The game to obtain a perfect newborn, not an orphan that needs a home, has become a fine oiled profitable machine by coercion and fraud protected by the State of Kansas. Disciplinary measures for abuse have become futile due to the Disciplinary Administrator being the brother of the President of the Academy of Adoption Attorneys. Federal oversight is long overdue for families and children's lives are being hurt and destroyed by forcing unnecessary, unethical, and illegal adoptions.

There was a definite scheme to keep a copy of the relinquishment away from me so that I could not see that the form was invalid. It was invalid for 12 days. This evidence was stated in testimony by the social worker who said upon advice of Mr. Bauer, "....do not give her a copy...." even though the form on top says that I was entitled to receive a copy of it.

Drug Issue

Clearly the Federal government must intervene when ignorance of drug metabolism fosters and excuses tactics pressuring relinquishments while a mother still has powerful narcotics in her system. Respondent obviously has repeatedly shown lack of comprehension about the pharmacokinetics of drugs. The Lower Court in this case clearly showed lack of concern, common sense, and clear bias to the other party in its failure and refusal to acknowledge how unethical, irresponsible, cruel, and coercive it is to obtain an extrajudicial irrevocable, liberty-protected interest from a mother merely considering adoption

while she is under the influence. This horrible tactic only serves the interest of the agency and adoptive parents who are desperate for the perfect newborn. In ***re adoption of Baby Girl T.,*** the Ks Appellate Court page 8 stated, "We conclude the legislature wanted to protect birth mothers from being coerced into signing a consent while under the influence of pain or pain-inhibiting medication, while balancing the need for permanency in the legal status of the child". Note when my case went to them a year later, I was discriminated against. This proves not only does the legislature show ignorance of drug pharmacokinetics. but the Courts as well. It is firmly established that a waiver of constitutional rights must be voluntarily, knowingly and intelligently made, and this should be no less true for relinquishment of parental rights than for any other liberty right (see, Johnson v. Zerbist, 304 U.S. 458; Matter of Male Infant L., 61 N.Y. 2d 420, 427; Matter of Daniel C., 99AD2d 35, 67.) Hence, to under the influence of narcotics is not free, voluntary, or final. Furthermore, I can provide the name of the woman who was given her baby back in Topeka because she was on medication.

Fentanyl was the drug used in my epidural, which is 50-100 times more powerful than Morphine. Its half-life is between 2-4 hours which means that half of the drug concentration is still in the system at 10 to 20 hours later. Then oral Percocet, a Schedule 2 powerful narcotic that must be locked up in a safe, was given on top of that. Each dose of Percocet duration of action lasts 4-6 hours. Then it would take 5 times that to be reduced to half of the concentration. This dose plus the 9 other doses were still in my system. How

can a waiver of constitutional right be intelligently made while in a drugged state of mind? Even the social workers notes state that I was undecided even in the hospital. The Kansas Adoption Act clearly does not protect the mother, but to the contrary helps lock in the irrevocable signature as soon as 12 hours. Even though the respondent notes that my signature was obtained 44 hours later, that was because I did not want to sign and the social workers told me I had to while in the hospital. They discouraged parenting as was stated in testimony by Dana Soetaert. Respondent also misstates that there were no witnesses to impairment. However, in the transcripts there are several obvious instances made by Dana Soetaert and another witness. Dana Soetaert also noted I reported blurry vision from the drugs.

Respondent again errors in stating provable fact when he states that I retained an attorney on January 29, 2001. I sought an attorney on December 26, 2000, long before the form was even valid. My attorney did not receive a copy of the relinquishment until February 2001 before the hearing in March 2001 and after requesting it.

The Kansas Courts Did Not Apply But Ignored The Proper Legal Standard Case Law supports my exact issue of not being legal without being accepting by the agency in ***Baby Boy N.*** and ***Wilson V. Children's Home.*** The other side had no case law to go by. These cases are identical to mine and I was discriminated against.

K.S.A. 59-2114 makes a mother prove her state

of mind while on potent intoxicating drugs. Federal intervention is needed to outlaw this. There is no protection for the birthmother in Kansas. Adoptive parents and the agencies and attorneys who abuse the system have greater protection.

Rational Basis

The Ks Adoption and Relinquishment Act does not pass constitutional muster. The standard achieves interest of not the state, but the mere hopeful, expectful prospective parents, which is completely in opposition of what this court stands for, which is family preservation. The best interest of the child is to remain with the only mother it has known for nine months.

Equal Treatment of the Constitution

I claim my right to equal protection was violated because case law supports me, ***Baby Boy N, Wilson v. Children's Home***. These cases are indentical to my situation and should have applied to my case as well. Respondent states that the 12-hour law was enacted to protect the birthmothers. In Baby T. the court said it was to prevent the mother from signing while under the influence of pain-inhibiting drugs. However, in my case I was not given any protection from this. I find the act in total opposition from what this Superior Court believes and what ethical adoption practices do.

Quite backwards to say that a child is better off 24 hours after leaving her mother with strangers that the mother the baby has known for nine months and who will in the future see the injustice of what

happened to separate what nature has created. The Lower Court of Ks also showed discrimination when I was denied visitation before the hearing in March, while the prospective adoptive parents held on to her. This alone was discrimination by the Lower Court judge. By denying me visitation as this was to be a completely open adoption with pictures and visits (I have not seen my daughter since birth), I was not treated as a parent who had never given a final consent, but as if I had fully understood what I was doing. The appropriate remedy was to declare the relinquishment a nullity ab initio and to return the status quo ante. To do anything less is to subject me to an on-going deprivation of due process law. (see, Matter of Unnamed Baby Boy, supra). The judge in the Lower Court showed bias there. Also I was discriminated against because Catholic Charities was allowed to not follow the law for about 12 days, in which the law specifically states that to be valid it must be accepted in writing. Because the Executive director was on vacation was no excuse to break the law and not be held accountable. Evidence throughout the testimony proved I was never definite on adoption, which was even stated by the Lower Court judge. This is an example of extreme misstatement of the facts.

Respondent keeps stating that the birth was uncomplicated, however fails to state that the doctor diagnosed me with maternal exhaustion during labor, which necessitated the baby being taken via vacuum extraction. Yes, the birth was successful (uncomplicated) but the status of myself was not. I also experienced second degree tearing which created my need for strong painkillers as well as the birth. The

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respondent has erred in interpreting the medical terms as well as any competency in childbirth.

Adoption is now a multi-billion dollar industry, which supplies babies for paying couples. This is the branch of adoption that is corrupt, coercive, and is getting worse. Because so many mothers in Kansas have been abused through the Kansas Adoption Act, please step in and render it illegal to take a consent while the mother is still on potent narcotics. Furthermore, strike out that Social Workers and Attorneys can act as judges taking a consent or relinquishment in the hospital while a mother still has narcotics in her system. Most states have a 72-hour waiting period and or have a brief revocation period because of the duress, pressure and coercion that goes on. Also recognize the severe abuse of Adoption practices in Kansas. It is so bad that I was sent a threatening letter by the attorney, which I filed with the police department. They were convinced as well which necessitated them calling the attorney and telling him not to contact me since I did not have an attorney.

Lastly, but very insignificant, Respondent points out that the couple was not Wichita client of Catholic Charities, but they were clients of Catholic Social Services in Topeka. Their file was transferred to Wichita early on and they did become their clients.

Conclusion

This Honorable Court should grant this petition and directly address the application of the Equal Protection Clause regarding the relinquishment as well

and the Adoption Act of Kansas which allows pressuring of relinquishment under the influence of narcotics

Respectfully Submitted,

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